

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0055P

Gross and Adjusted Gross Income Tax
Calendar Years 1996, 1997, and 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Michigan and has several distribution centers located out of state. It owns land and buildings in Indiana and maintains trucks in the state. Taxpayer's goods are brought from the distribution centers via double trailers and dropped off at the truck locations for delivery to convenience stores, drug stores, grocery stores, supermarkets, mass merchandisers, and petroleum retailers throughout Indiana.

Taxpayer protests the penalty and states that it relied on a computerized system to generate the sales information used to complete the Indiana Gross Earnings calculation. The sales information did not reflect the total Indiana sales for 1997 and its personnel had no reason to think that the information used in the 1997 gross earnings calculation was incorrect because the Indiana sales volume had been consistent with prior year totals and the overall computation appeared reasonable.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for underreporting gross income in 1997 and for failure to include leased vehicles in the property factor. Taxpayer also failed to include interest income and gross proceeds from the sale of assets in the denominator of the sales factor.

Taxpayer, in two letters both dated January 15, 2001, protested penalties assessed because there was no negligence or intentional disregard of Indiana tax regulations.

The audit indicates that the 1997 gross income tax calculation was inconsistent with the prior year. Taxpayer indicates the Indiana sales volume had been consistent with the prior year's totals. Taxpayer reported \$4,800,000 in 1996 and only \$2,900,000 in 1997, which is not consistent. In addition, taxpayer made errors in determining adjusted gross income for the apportionment factors.

Taxpayer has not provided reasonable cause to allow the department to waive the negligence penalty.

FINDING

Taxpayer's protest is denied.